

**Order Adopting Amendment to General Rules of Practice
for the Superior and District Courts**

Pursuant to the authority of Article IV of the Constitution of North Carolina and N.C.G.S. §7A-34, the General Rules of Practice for the Superior and District Courts are amended by adding a new Rule 26 to read:

"26. Secure Leave Periods for Attorneys

(A) Purpose, Authorization. In order to secure for the parties to actions and proceedings pending in the Superior and District Courts, and to the public at large, the heightened level of professionalism that an attorney is able to provide when the attorney enjoys periods of time that are free from the urgent demands of professional responsibility and to enhance the overall quality of the attorney's personal and family life, any attorney may from time to time designate and enjoy one or more secure leave periods each year as provided in this Rule.

(B) Length, Number. A secure leave period shall consist of one or more complete calendar weeks. During any calendar year, an attorney's secure leave periods pursuant to this Rule and to Rule 33A of the Rules of Appellate Procedure shall not exceed, in the aggregate, three calendar weeks.

(C) Designation, Effect. To designate a secure leave period an attorney shall file a written designation containing the information required by subsection (D), with the official specified in subsection (E), and within the time provided in subsection (F). Upon such filing, the secure leave period so designated shall be deemed allowed without further action of the court, and the attorney shall not be required to appear at any trial, hearing, in-court or out-of-court deposition, or other proceeding in the Superior or District Courts during that secure leave period.

(D) Content of Designation. The designation shall contain the following information: (1) the attorney's name, address, telephone number and state bar number, (2) the date of the Monday on which the secure leave period is to begin and of the Friday on which it is to end, (3) the dates of all other secure leave periods during the current calendar year that have previously been designated by the attorney pursuant to this Rule and to Rule 33A of the Rules of Appellate Procedure, (4) a statement that the secure leave period is not being designated for the purpose of delaying, hindering or interfering with the timely disposition of any matter in any pending action or proceeding, and (5) a statement that no action or proceeding in which the attorney has entered an appearance has been scheduled, peremptorily set or noticed for trial, hearing, deposition or other proceeding during the designated secure leave period.

(E) Where to File Designation. The designation shall be filed as follows: (1) if the attorney has entered an appearance in any criminal action, in the office of the District Attorney for each prosecutorial district in which any such case or proceeding is pending; (2) if the attorney has entered an appearance in any civil action, either (a) in the office of the trial court administrator for each superior court district and district court district in which any such case is pending or, (b) if there is no trial court administrator for a superior court district, in the office of the Senior Resident Superior Court Judge for that district, (c) if there is no trial court administrator for a district court district, in the office of the Chief District Court Judge for that district; (3) if the attorney has entered an appearance in any special proceeding or estate proceeding, in the office of the Clerk of Superior Court of the county in which any such matter is pending; (4) if the attorney has entered an appearance in any juvenile proceeding, with the juvenile case calendaring clerk in the office of the Clerk of Superior Court of the county in which any such proceeding is pending.

(F) When to File Designation. To be effective, the designation shall be filed: (1) no later than ninety (90) days before the beginning of the secure leave period, and (2) before any trial, hearing, deposition or other matter has been regularly scheduled, peremptorily set or noticed for a time during the designated secure leave period.

(G) Procedure When Court Proceeding Scheduled Despite Designation. If, after a designation of a secure leave period has been filed pursuant to this rule, any trial, hearing, in-court deposition or other in-court proceeding is scheduled or peremptorily set for a time during the secure leave period, the attorney shall file with the official by whom the matter was calendared or set, and serve on all parties, a copy of the designation with a certificate of service attached. Any party may, within ten days after service of the copy of the designation and certificate of service, file a written objection with that official and serve a copy on all parties. The only ground for objection shall be that the designation was not in fact filed in compliance with this Rule. If no objection is filed, that official shall reschedule the matter for a time that is not within the attorney's secure leave period. If an objection is filed, the court shall determine whether the designation was filed in compliance with this Rule. If the court finds that the designation was filed as provided in this Rule, it shall reschedule the matter for a time that is not within the attorney's secure leave period. If the court finds the designation was not so filed, it shall enter any scheduling, calendaring or other order that it finds to be in the interests of justice.

(H) Procedure When Deposition Scheduled Despite Designation. If, after a designation of a secure leave period has been filed pursuant to this Rule, any deposition is noticed for a time during the secure leave period, the attorney may serve on the party that noticed the deposition a copy of the designation with a certificate of service attached, and that party shall reschedule the deposition for a time that is not within the attorney's secure leave period. Any dispute over whether the secure leave period was properly designated pursuant to this Rule shall be resolved pursuant to the portions of the Rules of Civil Procedure, G.S. 1A-1, that govern discovery.

(I) Nothing in this Rule shall limit the inherent power of the Superior and District Courts to reschedule a case to allow an attorney to enjoy a leave during a period that has not been designated pursuant to this Rule, but there shall be no entitlement to any such leave.

Adopted by the Court in Conference this 6th day of May, 1999, on the recommendation of the Chief Justice's Commission on Professionalism. This amendment is effective January 1, 2000, and applies to all actions and proceedings pending in the Superior and District Courts on and after that date. This amendment shall be promulgated by publication in the Advance Sheets of the Supreme Court and Court of Appeals and by distribution by mail to each superior and district court judge, district attorney, clerk of superior court, and the North Carolina State Bar.

Wainwright, J.

For the Court